

REMARKS

Claims 1-16 are pending. Reconsideration and allowance of the pending claims are respectfully requested in light of the foregoing amendments and the following remarks.

Rejections under 35 U.S.C. §102(e)

Claims 1-6 and 8-10 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,027,414 to Walsh et al. (hereinafter “Walsh”). Applicants respectfully traverses the Examiner’s position for the following reasons.

The PTO provides in MPEP § 2131 that

“[t]o anticipate a claim, the reference must teach every element of the claim....”

With regard to independent claims 1 and 6, Applicants submit that Walsh fails to teach every element of those claims. In particular, with regard to claim 1, Walsh fails to teach or suggest a step of “applying a service marking to the packet dependent on the application associated with the packet”. On the contrary, as noted by the Examiner, Walsh discloses that “classification logic 208, as in step 405, classifies the packets to a transport service.” Col. 10, lines 51-52 (emphasis added). Clearly, this is not equivalent to “applying a service marking to the packet” as required by claim 1.

With regard to claim 6, Walsh fails to teach or suggest “a table comprising an index including at least one key, each key having a record associated therewith, each record having a service marking therein, the node operable to interrogate the table with an identification of an application obtained from the packet, the service marking returned to the node upon a match between the identification and one of the keys.” Contrary to the Examiner’s assertion, Walsh’s teaching of queues that affect mapping of transport services to packet delivery services does not anticipate the above-noted element as recited in claim 6. Clearly, Walsh fails to teach “the node operable to interrogate the table with an identification of an application obtained from the packet, the service marking returned to the node upon a match between the identification and one of the keys” as required by claim 6. Indeed, the Examiner fails to point to any element of Walsh that he believes to anticipate the claimed “the node operable to interrogate the table with an identification of an application obtained from the packet.”

In view of the foregoing, it is apparent that the rejection of independent claims 1 and 6 under 35 U.S.C. §102(e) is not supported by Walsh and should therefore be withdrawn. Claims 2-5 and 8-10 depend from and further limit independent claims 1 and 6 and are therefore also deemed to be in condition for allowance.

Rejections under 35 U.S.C. §103(a)

Claims 7 and 11-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Walsh in view of U.S. Patent No. 7,023,820 to Chaskar (hereinfter “Chaskar”). Applicants traverse this rejection on the grounds that the above references are defective in establishing a prima facie case of obviousness with respect to the noted claims.

Claims 7 and 11 depend from and further limit claims 1 and 6 and are therefore allowable for at least the reasons described in the preceding section. Claims 12-16 are addressed in detail below.

As provided in MPEP §2143, “[t]o establish a prima facie case of obviousness, ... the prior art reference (or references when combined) must teach or suggest all the claim limitations.” Furthermore, under MPEP §2142,

The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness.

It is submitted that, in the present case, the Examiner cannot factually support a prima facie case of obviousness with respect to claims 12-16 for at least the following reason.

With regard to claim 12, Walsh fails to teach or suggest a service node that is operable to interrogate a table with a query value indicative of an application to obtain a service marking therefrom for the reasons set forth above with respect to claim 6. Walsh further fails to teach or suggest a service node that is operable “to write the service marking into a field of the packet, the node operable to transmit the packet across the telecommunication network” for the reasons set forth above with respect to claim 1. Chaskar, which is cited for its teaching of BSS 118, fails to remedy the limitations of Walsh discussed above.

Thus, for at least this reason, the Examiner’s burden of factually supporting a prima facie case of obviousness clearly cannot be met, and the rejection of claim 12 under 35 U.S.C. §103 should be withdrawn. Claims 13-16 depend from and further limit claim 12 and are therefore also deemed to be in condition for allowance for at least the same reasons as claim 12.

Conclusion


It is clear from all of the foregoing that claims 1, 6, and 12 are in condition for allowance. Claims 2-5, 7-11, and 13-16 depend from and further limit independent claims 1, 6, and 12 and are therefore also deemed to be in condition for allowance.

An early formal notice of allowance of claims 1-16 is requested.

Should the Examiner deem that an interview with Applicants’ undersigned attorney would

expedite consideration of the claims, the Examiner is invited to call the undersigned attorney at the telephone number indicated below.

Respectfully submitted,



Brandi W. Sarfatis
Registration No. 37,713

Dated: July 23, 2007
HAYNES AND BOONE, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789
Telephone: 214/651-5896
Facsimile: 214/200-0948

Certificate of Transmission

I hereby certify that this correspondence is being transmitted
via EFS-Web to the United States Patent and Trademark
Office, on the date indicated below

July 23, 2007


Ellen Lovelace